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304698

November 10, 2004

The Honorable Jeffrey Runge, MD

Administrator

National Highway Traffic Safety Administration

400 Seventh Street, SW

Washington, DC 20590

Attn: Docket No. NHTSA-2004-19209-- 6

Petition for Reconsideration and Emergency Stay of Effective Date

Dear Dr. Runge:

The Manufacturers Council of Small School Buses (MCSSB) respectfully submits this petition for reconsideration in response to NHTSA's October 1, 2004 Final Rule; response to petitions for reconsideration, Federal Motor Vehicle Safety Standards (FMVSS 403); Platform Lifts for Motor Vehicles, and (FMVSS 404) Platform Lift Installations in Motor Vehicles. We also request an emergency stay of the effective date as it applies to the requirement that vehicle manufacturers certify compliance with the platform lift lighting regulation.

### The MCSSB

The MCSSB, an affiliate of the National Truck Equipment Association (NTEA), is composed of 6 manufacturers of Type A and Type B school buses. (Blue Bird Body Co, Collins Industries Inc, Girardin Minibus Inc, Les Entreprises Michel Corbeil, Thomas Built Buses Inc and US Bus Corp) The group was formed in 1990 to address various small school bus issues and work with federal agencies and other industry groups in revising existing standards and developing new standards that affect the industry.

### Background

On December 27, 2002, NHTSA published a final rule establishing FMVSS 403, Platform lift systems for motor vehicles, and FMVSS 404, Platform lift installation on motor vehicles (67 FR 79416). This final rule is to be effective December 27, 2004. After the final rule was published

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NHTSA received a number of petitions for reconsideration. NHTSA responded to those petitions and amended the standards in its October 1, 2004 publication.

According to the October 1, 2004 Federal Register publication, "In response to these petitions, the agency is amending FMVSS 403 and 404 to clarify the applicability of these standards so that they do not apply to special purpose lifts and lifts installed on ambulances, redefine "deploy" and "stow" to be less design restrictive, establish the lighting requirements as a vehicle requirement; permit lift manufacturers to rely on existing vehicle components to comply with the interlock requirements, exclude lifts that manually deploy and stow from specified lift performance requirements, permit a wider range of platform lift designs to comply with environmental resistance requirements for internally stowed lifts, provide more flexibility in the degree of platform deflection between the unloaded platform and the vehicle floor, reduce the required extension of continuous edge guards to inner platform edge, establish a performance based alternative to the continuous edge guard requirement, establish further specifications for the wheelchair test device, clarify the term "control system," provide flexibility in the placement of the control system panel, and make several corrections to the regulatory text adopted by the final rule."

#### **MCSSB Concerns**

In NHTSA's response to the petitions for reconsideration the agency shifted the long standing responsibility for lighting from the lift manufacturers to the vehicle manufacturers.

"The platform lift lighting requirement formerly in S6.4.11 of FMVSS 403 is now a motor vehicle requirement in S4.1.5 of FMVSS 404. As they are already required to meet the applicable lighting requirements under the ADA, this will not be an additional burden for the vehicle manufacturers." (69 FR 58846).

This shift of responsibility from the lift manufacturer to the vehicle manufacturer was done without formal notice or the opportunity for comments from affected companies or industry groups. Further it was based on incomplete information. School bus manufacturers are not, in fact, subject to the ADA requirements. Requiring these vehicle manufacturers to comply with such a new responsibility without comment from them and on less than three month's notice is neither reasonable nor practicable. Additionally, the lighting requirements being specified are also substantially greater than ADA (5 vs. 2 lm/sqft) and under different conditions (throughout the range of passenger operations as well as at floor level).

The MCSSB strongly believes that responsibility for the lighting requirements should remain with the lift manufacturers for both technical and practical reasons. First, the lights need to be lift mounted since they must illuminate the platform

throughout its range of travel. Second, for all other requirements, including vehicle interlocks, the lift manufacturers are assigned the primary responsibility.

The MCSSB is also concerned with the lighting levels required by the new regulation.

Standard 404 at S4.1.5. now states:

“... provide at least 54 lm/m<sup>2</sup> (5 lm/sqft) of luminance on all portions of the surface of the platform [emphasis mine], throughout the range of passenger operation. The luminance on all portions of the surface of the passenger-unloading ramp [emphasis mine] at ground level must be at least 11 lm/m<sup>2</sup> (1 lm/sqft).”

Our interpretation of the luminescence requirements is as follows:

ADA: 2 lm/sqft on platform at floor level  
1 lm/sqft on ramp at ground level

403/404: 5 lm/sqft on platform at floor level  
5 lm/sqft on platform at ground level  
1 lm/sqft on ramp at ground level

The illumination requirements for the ramps at ground are the same for ADA and 403. Our concern is the 2 ½ times greater illumination required at floor level and the same, excessive level on the platform when fully extended to ground level.

The ADA lighting requirements have been in effect for some time and appear to be reasonable. We are unaware of any reason to increase the platform luminescence beyond 2 lm/sqft at the floor. Five (5) lm/sqft, in particular, seems to be quite excessive and unjustified. MCSSB is also concerned that the new lighting requirements are excessive and could have adverse safety effects including a potential burn risk to users, distraction to oncoming drivers and glare in the eyes of users.

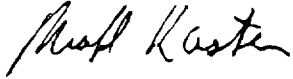
### **Requested Relief**

The MCSSB requests that NHTSA reconsider its decision requiring school bus manufacturers to certify the compliance of platform lift lighting systems and return that requirement to the platform lift manufacturers. Additionally, we request that NHTSA reduce the lighting requirement in FMVSS 403/404 to the same level as the ADA requirement.

We also request that NHTSA delay the effective date of this section while this matter is under consideration

If the NTEA or MCSSB can provide any additional information please feel free to contact me at (202) 484-0526.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Kastner". The signature is fluid and cursive, with the first name "Michael" and last name "Kastner" clearly distinguishable.

Michael Kastner  
Director of Government Relations  
NTEA Washington, DC Office